

## **DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT is entered this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the City of Westfield, Indiana, an incorporated municipality (“Westfield”), and Throgmartin Henke Development, LLP, an Indiana limited liability partnership (“Developer”), and sometimes referred to as the “Parties” to provide for the subdivision and development of real estate generally located on the southwest corner of 161<sup>st</sup> and Gray Road (“Development Project”).

WITNESSETH:

WHEREAS, Westfield and Developer have come together to be collaborative; and

WHEREAS, Developer has filed an application for a Minor Subdivision to subdivide the Property generally located at 15887 Gray Road North, and more particularly described in the attached **Exhibit A** (the “Real Estate”); and

WHEREAS, the Developer is required to dedicate right-of-way and install a multi-purpose path at the time of the development of the Real Estate pursuant to the Westfield-Washington Township Unified Development (the “Unified Development Ordinance”) and the Westfield Thoroughfare Plan, a part of the Westfield-Washington Township Comprehensive Plan (the “Thoroughfare Plan”); and

WHEREAS, Developer desires to not install the required multi-purpose path along the Real Estate’s Gray Road frontage (the “Path Improvement”); and

WHEREAS, Developer and Westfield agree the value of the Path Improvement to be forty thousand dollars (\$40,000) (the “Path Improvement Cost”); and

WHEREAS, Westfield desires to assist development and integrate improvements of complementary right-of-way infrastructure collaboratively with the development community; and

WHEREAS, in lieu of Developer installing the Path Improvement, the Parties desire to enter into a Development Agreement setting forth the services to be provided by each entity.

NOW THEREFORE, the Parties in consideration of the mutual covenants contained herein agree as follows:

1. Developer shall, at the Developer’s sole expense, design and construct a new asphalt trail along the north side of 151<sup>st</sup> Street between Long Cove View and the Market Center Drive roundabout, as generally depicted in **Exhibit B**. This trail shall be of equal or greater width than the trail along the Market Center Drive roundabout. This trail shall be constructed as far away from the roadway as permitted within the existing right-of-way.

2. Developer shall, at the Developer's sole expense, design and construct a new asphalt trail connection from Kampen Circle to the existing trail along the northwest corner of Market Center Drive roundabout, as generally depicted in **Exhibit C**.
3. Developer shall, at the Developer's sole expense, design and construct a new pedestrian crossing at or near Setters Road, as generally depicted in **Exhibit D**.
4. If bids for the construction of covenants 1 through 3 are provided greater than the Path Improvement Cost, then Westfield shall consider:
  - a. Reducing the limits of the improvements to equal or be less than the Path Improvement Cost; or
  - b. Issue Developer a Road Impact Fee credit in the amount equal to the difference between the lowest responsive bid and the Path Improvement Cost.
5. All improvements required herein shall be constructed in accordance with Westfield's Construction Standards, Thoroughfare Plan and be ADA compliant. Prior to construction of Improvements, Developer shall provide construction plans to Westfield for review and approval. Improvements by the Developer shall be subject to any applicable permits, financial guarantees and inspections by Westfield.
6. Developer shall dedicate all improvements herein to the Westfield after construction of the improvements at no cost to Westfield.
7. Any notice, statement, demand, or other communication required or permitted to be given, rendered or made shall be addressed as indicated below:

If to City of Westfield:  
City of Westfield  
Attn: Jeremy Lollar  
Director of Public Works  
2706 E. 171<sup>st</sup> Street  
Westfield, IN 46074

With a Copy to:  
Kreig DeVault  
Attn: Brian J. Zaiger  
12800 N. Meridian Street, Suite 300  
Carmel, IN 46032

If to Developer:  
Throgmartin Henke Development, LLP  
Attn: David Mennel  
1 S. Rangeline Road  
Carmel, IN 46032

With a Copy to:  
**TBD**

Each party represents that it has the authority to enter into this Agreement binding each party.

Executed the date and year first above written.

CITY OF WESTFIELD

THROGMARTIN HENKE DEVELOPMENT  
LLP

By:\_\_\_\_\_

Printed:\_\_\_\_\_

Title:\_\_\_\_\_

Date:\_\_\_\_\_

By:\_\_\_\_\_

Printed:\_\_\_\_\_

Title:\_\_\_\_\_

Date:\_\_\_\_\_

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STATE OF INDIANA )  
 ) SS:

COUNTY OF HAMILTON )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, on behalf of Throgmartin Henke Development, LLP, who acknowledged the LLP's authority and the execution of the foregoing Development Agreement to be its voluntary act and deed.

**WITNESS**, my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2015.  
My Commission Expires:

\_\_\_\_\_

Printed: \_\_\_\_\_  
Notary Public, A Resident of  
\_\_\_\_\_ County, Indiana

STATE OF INDIANA )  
 ) SS:

COUNTY OF HAMILTON )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, on behalf of The City of Westfield, who acknowledged their authority and the execution of the foregoing Development Agreement to be its voluntary act and deed.

**WITNESS**, my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2015.  
My Commission Expires:

\_\_\_\_\_

Printed: \_\_\_\_\_  
Notary Public, A Resident of  
\_\_\_\_\_ County, Indiana

THIS INSTRUMENT PREPARED BY: Brian J. Zaiger, Attorney at Law  
KRIEG DEVAULT, LLP  
12800 North Meridian, Suite 300  
Carmel, IN 46032  
(317) 238-6266